IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

WP(C).No. 33866 of 2006(F)

PETITIONER:

M/S. BERGER PAINTS INDIA LTD., V.P. MARIKAR ROAD, NEAR TOLL JUNCTION, EDAPPALLY, COCHIN-24, REPRESENTED BY ITS ADMINISTRATIVE EXECUTIVE K. RAMOHAN.

BY ADV. SRI.V.P.SUKUMAR

RESPONDENTS:

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1. THE SALES TAX INSPECTOR, SALES TAX CHECK POST, MUTHANGA.

2. THE SALES TAX INSPECTOR, SALES TAX CHECK POST, WALAYAR.

3. THE STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, SECRETARIATE, THIRUVANANTHAPURAM.

GOVT. PLEADER SRI. JULIAN XAVIER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19.12.2006, THE COURT ON THE SAME DAY, DELIVERED THE FOLLOWING:

P.R. RAMAN, J.

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W.P.(C) NO. 33866 OF 2006

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DATED THIS, THE 19TH DAY OF DECEMBER, 2006.\

J U D G M E N T

The prayer made in this writ petition is for a declaration that the Kerala Tax on Entry of Goods into Local Areas Act, 1994 is ultra vires of the provisions and hence unconstitutional.

2. In the light of the decision of the Division Bench in **George Edward Issac v. RTO, Kollam** (W.A. 1076/1997) and connected cases, the prayer sought for is only to be allowed. The Division Bench has, after considering the provisions contained in the Kerala Tax on Entry of Goods into Local Areas Act, 1994 held that those provisions are unconstitutional as it is not compensatory. In such circumstances, the writ petition is allowed. There will be a direction to the respondents to release the goods forthwith.

P.R. RAMAN,
(JUDGE)

knc/-